

arms, ammunition or liquor to the Indians. Liquor was manufactured and sold for medical and domestic uses, but saloons and all dens of vice were prohibited. The Government of the State of Deseret continued until April, 1851, when it was merged into the Government of the Territory of Utah.

## VIII.

## THE TERRITORY OF UTAH.

1850-1853.

**Boundary Lines.**—Congress denied Deseret's prayer for Statehood, and organized the Territory of Utah; California at the same time being admitted into the Union. Utah was bounded on the west by the State of California, on the north by the Territory of Oregon, on the east by the summit of the Rocky Mountains, and on the south by the thirty-seventh parallel of north latitude. This cut off the strip of seacoast included in the proposed State of Deseret, but still left the Territory an area of 225,000 square miles. The character of the country thus enclosed caused Senator Seddon, of Virginia, to remark that it "had been abandoned to the Mormons for its worthlessness."

Colonel Babbitt, delegate and proposed representative from the State of Deseret, on arriving at the City of Washington late in 1849, had sought the earliest opportunity to deliver the public documents of which he was the bearer. The State Constitution and memorial for admission were placed in the hands of Senator Douglas, who presented them in the upper house of Congress during December. Later they were referred to the Senate Committee on Territories. About the same time a memorial signed by William Smith, Isaac Sheen, and other apostate "Mormons" was submitted to that body. This memorial set up the claim that its signers were the legitimate presidents of the Church of Jesus Christ of Latter-day Saints, and asserted that fifteen hundred "Mormons," prior to the exodus from Nauvoo, had sworn an oath of eternal hostility to the United States Government.

**Opposition to Statehood.**—The Committee on Elections of the House of Representatives, after considering Colonel Babbitt's application for a seat in that body, reported a resolution containing this sentence: "The admission of Mr. Babbitt would be a quasi recognition of the legal existence of the State of Deseret; and no act should be done by this body which, even by imputation, may give force and vitality to a political organization extra-constitutional and independent of the laws of the United States." The House adopted the resolution by a majority vote, and Colonel Babbitt was denied admission.

**Creation of the Territory.**—The Senate, after a delay of nearly nine months, passed a bill providing for the organiza-

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tion of the Territory of Utah. Two days later this bill passed the House, and was approved by President Millard Fillmore. It was signed by him on the 9th of September, 1850, but the news did not reach Salt Lake City until the 27th of January, 1851. Even then it did not come directly or in an official way, but having been published in Eastern papers and carried across the Isthmus and up to San Francisco, along with the tidings of California's admission, it was brought to Utah by a returning missionary.\*



PRESIDENT FILLMORE.

pointees. Brigham Young, Governor of Deseret by popular vote, was now Governor of Utah by presidential appointment; and three other prominent "Mormons" were likewise commissioned to represent the United States in this Territory. The full list of the Federal officers was as follows: Brigham Young, Governor; Joseph Buffington, Chief Justice; Perry E. Brocchus and Zerubbabel Snow, Associate Justices; Seth M. Blair, Attorney; and Joseph L. Heywood, Marshal. Three Indian agents were also named—Jacob H. Holman, Henry R. Day, and Stephen B. Rose.

The Governor, the Attorney, and the Marshal were residents of Salt Lake City. Judge Snow was living in Ohio, but had relatives in Utah. Secretary Harris was from Vermont, and Judge Brocchus from Alabama. Chief Justice Buffington, a Pennsylvanian, declined his appointment, and Lemuel G. Brandenburg, of the same State, was appointed in his stead.

\*That missionary was Henry E. Gibson. He had gone west with Charles C. Rich, George Q. Cannon and others, in the autumn of 1849. They were the first Utah men to pass over "The Southern Route," the trail now covered by the San Pedro Los Angeles and Salt Lake Railroad. Gibson brought to Salt Lake City a copy of the New York Tribune, containing a list of President Fillmore's appointments for this Territory.

The Indian agents were also from outside the Territory. All these officers—four "Mormons" and six "Gentiles"—were nominated soon after the passage of the Organic Act. Governor Young's commission, signed by President Fillmore and attested by Daniel Webster, Secretary of State, was dated September 28, 1850.\*

**State and Territorial Government.**—Americans love to govern themselves. For that reason the founders of Utah preferred a State to a Territorial form of government, though the cost of maintaining it would have been greater.† The peo-

\*The Governor, Secretary, Judges, Attorney, and Marshal were to hold office for four years and until their successors were elected and qualified, unless sooner removed by the power that appointed them. Each officer, before beginning his labors, was required to take oath or affirmation before a magistrate, to support the Constitution of the United States, and faithfully discharge the duties of his office. All acts of the Legislature had to receive the approving signature of the Governor before going into effect as laws. The Governor held authority to commission all officers appointed under those laws, and it was his duty, as Chief Executive of the Territory, to see that the laws were enforced and justice administered. He also had power to grant pardons and reprieves. He was Commander-in-Chief of the Militia, and Superintendent of Indian Affairs. The duty of the Secretary was to keep a record of all laws and proceedings of the Legislature, all official acts and proceedings of the Governor, and to send copies of the same annually to the President and to Congress. As usual in the case of Territories, Congress reserved the right to disapprove and annul any act passed by the Legislature and approved by the Governor. In the absence of the Governor, the Secretary could perform all the duties of the Executive office.

Utah was divided into three judicial districts, and over each a Federal Judge was to preside and hold court therein; the three judges to constitute the Supreme Bench of the Territory. The Attorney and the Marshal were to attend to all United States business in or pertaining to the District and Supreme Courts. There were also probate courts, one for each county, and lesser tribunals presided over by justices of the peace.

The Governor's salary was fifteen hundred dollars a year, with an additional one thousand dollars for his services in the Indian Department. He was also allowed one thousand dollars annually for contingent expenses of the Territory. The Secretary and the three Judges were each to receive eighteen hundred dollars a year, while the Attorney and the Marshal, in addition to their small salaries, were to be paid fees for services rendered. The Secretary had at his disposal money to meet the expenses of the Legislature, which was composed of thirteen councilors and twenty-six representatives, each of whom was to receive three dollars a day, with mileage, during attendance at the sessions. These were to be held annually, and each was to be limited to forty days.

†A State pays its own expenses, including the salaries of its officers; while in a Territory the officers, appointed by the President, draw their salaries from the National Treasury. The General Government also defrays the expenses of the Territorial Legislature, but the Governor of Utah could prevent any act of the Legislature from becoming a law, by withholding from it his signature. The power so to nullify

ple of Deseret were denied Statehood because Congress deemed them unprepared to assume its responsibilities. The reason, more plainly stated, was the intense prejudice existing against the "Mormon" people and their religion.

**Public Sentiment Over Governor Young's Appointment—His Installation.**—The selection of Brigham Young for Governor was much criticised in many places, but it gave general satisfaction in Utah. The "Gentiles" then in the Territory were among those who commended the appointment. Captain Stansbury regarded it as "a measure dictated alike by justice and by sound policy." The President's act won for him the gratitude of the entire "Mormon" community.\*

Governor Young was absent when the news of his appointment reached Salt Lake City, but next day, while returning from a tour of the northern settlements, he was met near Farmington by General Wells, who saluted him as Governor of Utah and at the head of a company of cavalry escorted him to the city, amid firing of cannon and other demonstrations of rejoicing. He took the oath of office on the 3rd of February, before the Chief Justice of Deseret.

**Provisional Government Dissolved.**—On the 26th of March, Governor Young addressed a special message to the General Assembly, suggesting such arrangements as would

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the acts of the people's representatives, was called the absolute veto power. Needless to say it was hateful to the majority of the citizens. In a State, if two-thirds of each branch of the Legislative Assembly vote to pass an act over the Governor's veto, it then becomes a law without his signature. A State may send two Senators and one or more Representatives to Congress. Formerly these Senators were chosen by the Legislature, and the Representatives by the citizens at large; the number of representatives being determined by population. Now the United States Senators are elected by the people. A Territory may send a Delegate to Congress, who sits in the House of Representatives, but has no vote, and can speak only by permission of the other members, even upon questions affecting the Territory from which he comes. Statehood is usually given to the people requesting it when they become numerous and wealthy enough to support the higher form of government.

\*President Fillmore had been influenced in his choice for Governor by Colonel Thomas L. Kane, to whom he referred, after his act was questioned, for explanations and the refutation of certain charges made against Brigham Young. The Colonel reiterated his former statement of the Governor's "excellent capacity, energy and integrity," and testified also to his patriotism. In this connection he mentioned the enlistment of the Mormon Battalion, and said to the Chief Magistrate:

"It happens felicitously enough for the purpose of the accusation before you, that Brigham Young was the man of all others whose influence carried that measure through with the Church. It was his American flag that was brought out to float over those hills for the first time; his drums beat, and his brave American speeches rang through the hearts of the people."

render convenient a transition from the Provisional to the Territorial form of government. Acting promptly upon this suggestion, the Assembly, in joint session, passed a resolution appointing the 5th of April as the time for the change to go into effect.\* As a matter of fact, however, the Provisional Government "held over," until the machinery of the Territorial Government got into full operation, which was later in the year.

**First Territorial Election—Technical Irregularities.**—This change made desirable the early election of the Territorial Legislature. It was necessary, also, to choose the Delegate to Congress in time to enable him to cross the plains before the winter storms set in. Governor Young, prior to the election, caused "a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken;" a work completed on the 26th of June. The returns, which were from Great Salt Lake, Davis, Weber, Utah, Sanpete, Iron,

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\*The resolution, which was passed March 28, 1851, read as follows:

"Be it resolved by the General Assembly of the State of Deseret

"1. That we cheerfully and cordially accept the legislation of Congress in the Act to establish a Territorial Government for Utah.

"2. That we welcome the Constitution of the United States—the legacy of our fathers—over this Territory.

"3. That all officers under the Provisional State Government of Deseret are hereby requested to furnish unto their successors in office every facility in their power, by returning and delivering unto them public documents, laws, ordinances, and dockets, that may or can be of any use or benefit to their said successors in office.

"4. That Union Square, in Great Salt Lake City, be devoted for the use of public buildings of said Territory.

"5. That Governor B. Young be our agent to make drafts upon the treasury of the United States for the amount appropriated for said buildings, and to take such other measures as he shall deem proper for their immediate erection.

"6. That we appoint an architect to draft designs, and a committee of one, to superintend the erection of said buildings.

"7. That Truman O. Angell, of said city, be said architect, and Daniel H. Wells, of said city, the committee; and that they proceed immediately to the designing and erection of said buildings.

"8. That, whereas, the State House in Great Salt Lake City having been originally designed for a "Council House," and erected by and at the expense of the Church of Jesus Christ of Latter-day Saints, for the purpose, as well as to accommodate the Provisional Government; that we do now relinquish unto said Church the aforesaid building, tendering unto them our thanks for the free use thereof during the past session.

"9. That we fix upon Saturday, the fifth day of April next, for the adjustment and final dissolving of the General Assembly of the State of Deseret..

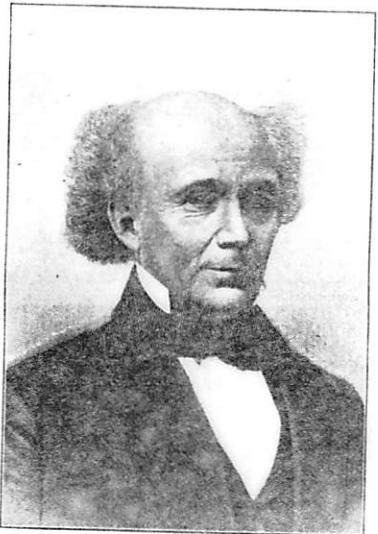
"H. C. Kimball, President of the Council.

"J. M. Grant, Speaker of the House."

and Tooele Counties, and from Green River Precinct, gave a total of 11,354 souls, excluding Indians, and including twelve colored free males and an equal number of colored free females, who were passing through the Territory.

The Governor next apportioned the membership of the Council and the House of Representatives, and issued a proclamation appointing Monday, August 4th, 1851, as the time for holding the election. It was held accordingly.\*

These proceedings were somewhat irregular. The enumeration of inhabitants was not returned upon regular census blanks, which had not arrived from Washington; and the Governor's proclamation apportioning the Legislative representation, was without the signature and seal of the Secretary, who had not yet appeared upon the scene. But the action taken was deemed necessary, in order to prevent further delay: the greater part of a year having gone by already, since the Territory was organized and its Federal officers appointed.



JOHN M. BERNHISEL.

ator from Pennsylvania, Bernhisel's native State. He was also intimately acquainted with Thaddeus Stevens and other statesmen. In national politics Dr. Bernhisel was a Whig, but be-

\*Great Salt Lake County elected six Councilors and thirteen Representatives; Utah County, two Councilors and three Representatives; Weber County, two Councilors and three Representatives; Davis County, one Councilor and three Representatives; Iron County, one Councilor and two Representatives; Sanpete County, one Councilor and one Representative; Tooele County, one Representative. Juab County had no representation, being still unoccupied. The first settler in that part was Joseph L. Heywood, who founded Salt Creek (Nephi) in September, 1851.

came Delegate by the united vote of the people, Utah having no political parties at that time.

**Federal Officers from the East—Assignments.**—Of the Federal officers from the East, the first to arrive in the Territory was Chief Justice Brandebury, who reached Salt Lake City on the 7th of June, nearly two months before the election. A ball and supper were given in his honor at the Warm Springs Building, a newly erected amusement hall in the northern suburb of the town. Secretary Harris and Judge Snow came in the latter part of July, and Judge Brocchus about the middle of August. The latter, with Orson Hyde and others, had been waylaid and robbed by Pawnee Indians while crossing the plains. Secretary Harris brought with him from Washington the sum of \$24,000, appropriated by Congress for the Utah Legislature; and Colonel Babbitt, who returned at the same time, brought \$20,000, the Congressional appropriation for the erection of public buildings in the Territory.

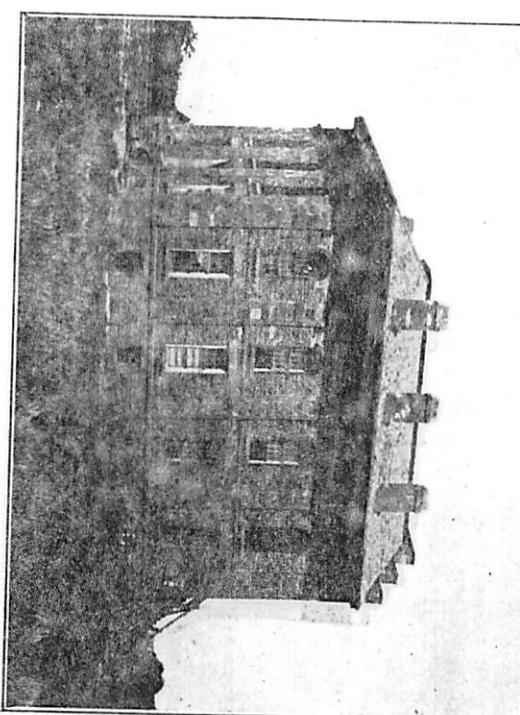
Governor Young, on the 8th of August, assigned the three Judges to their respective districts. Chief Justice Brandebury was given the First District, comprising Salt Lake and Tooele counties, with the adjacent country east and west to the boundaries of the Territory; Associate Justice Snow the Second District, comprising Davis and Weber counties, with adjacent country east, west and north; and Associate Justice Brocchus the Third District, embracing the counties of Utah, Sanpete and Iron, with adjacent parts east, west, and south. Already, as Indian Superintendent, the Governor had divided the Territory into three agencies, Parowan, Pauvan, and Uintah, assigning to them severally Chief Agent Holman and Sub-Agents Day and Rose.

**The Territorial Legislature.**—The Legislative Assembly of the Territory of Utah convened in its first session at Salt Lake City, on the 22nd of September, 1851. The personnel was as follows: Members of the Council: Heber C. Kimball, Willard Richards, Daniel H. Wells, Jedediah M. Grant, Ezra T. Benson, Orson Spencer, John S. Fullmer, Lorin Farr, Charles R. Dana, Alexander Williams, Aaron Johnson, Isaac Morley, George A. Smith. Members of the House: Wilford Woodruff, David Fullmer, Daniel Spencer, Willard Snow, William W. Phelps, Albert P. Rockwood, Nathaniel H. Felt, Edwin D. Woolley, Phinehas Richards, Joseph Young, Henry G. Sherwood, Benjamin F. Johnson, Hosea Stout, Andrew Lamoreaux, John Stoker, William Kay, James Brown, David B. Dille, James G. Browning, John Rowberry, David Evans, William Miller, Levi W. Hancock, Charles Shumway, Elisha Groves, and George Brimhall. Two of the Councilors, Ezra T. Benson and Jedediah M. Grant, resigned later in September to

go East, and Orson Pratt and Edward Hunter were elected on the 15th of November to take their places. At the same time John Brown succeeded Willard Snow as a Representative.

The Legislature organized by electing Willard Richards President of the Council, and William W. Phelps Speaker of the House. A joint resolution, adopted on the 4th of October, declared all laws of the State of Deseret, such as did not conflict with the Organic Act, to be of full force and effect in the Territory of Utah. This action of the Legislature preserved the charters granted to the several cities and to the University of Deseret.

**Location of the Capital.**—It had been designed to locate the Territorial capital at Salt Lake City; Union Square having



STATE HOUSE AT FILLMORE.\*

been offered as a site for the proposed public buildings. But now it was decided to choose a more central location; and this led to the creation of the County of Millard and the City of Fillmore, both named in honor of the President of the United States. Preliminary to that event, Anson Call was sent with a

\*This State House was begun, but never completed. The Legislature held but one full session at Fillmore (1855-1856). Several succeeding Legislatures met there in order to conform to the law, but immediately adjourned to Salt Lake City, where they could do their work more conveniently. Finally the capital was legally moved to their city. Its location in Central Utah was found to be a mistake, the greater part of the population being in the northern counties.

company to Chalk Creek, in Pauvan Valley, where, on the 29th of October, under the direction of Governor Young and a committee appointed by the Legislature, the capital was laid out and a site for the State House selected.

**Discontented Officials.**—Judge Brocchus, if report did not belie him, surveyed his duties in Utah a disappointed man. It was believed and asserted that he desired to represent the Territory in Congress, and was chagrined at learning, while on the way to Salt Lake City, that the election for Delegate had already taken place. He did not even visit his district, and from the first gave evidence of dissatisfaction.

Chief Justice Brandenburg and Secretary Harris were in sympathy with Brocchus. The three had been but a short time in Utah when they announced their intention of returning to the East. They complained of the smallness of their salaries, which Congress had fixed in the Organic Act. An effort was made to remove this cause of discontent; a petition asking for an increase in those salaries being signed by Governor Young and other citizens and sent to Washington. Still the Judges and the Secretary adhered to their determination. Governor Young then called upon them in person, expressing regret over their intended departure, and endeavoring to dissuade them from their purpose; but without avail. They were getting ready to leave, and Indian Agent Day was preparing to go with them.

**Judge Brocchus and Governor Young.**—Before leaving Utah, Judge Brocchus, in a public meeting, took occasion to criticize conditions in the Territory, and to censure some of the leading men for utterances construed by him as unfriendly to the Federal Government. His most offensive remark was one reflecting upon the virtue of the women of the community. This scurrilous fling awoke a storm of indignation. The congregation arose en masse, and the orator, unable to make himself heard above the din he had created, took his seat. Governor Young calmed the tumult and answered, denying that the people of Utah were unfriendly to the Government, and affirming their loyalty and devotion to American principles. As President of the Church, and in behalf of the women assembled, he severely reprimanded the fault-finding magistrate, and informed him that he had never had the honor of addressing a more virtuous assemblage.\*

\*Judge Brocchus had requested from President Young the privilege of addressing this meeting, which was a session of the General Conference of the Latter-day Saints, held in the "Old Bowery," on Temple Block. Judge Brundenburg and Secretary Harris were present and had seats upon the stand. Brocchus, according to his own statement, was "respectfully and honorably introduced" by the "Mor-

In a correspondence that ensued, Judge Brocchus disclaimed any intent to insult the women of Utah, and affirmed that he had said nothing "deserving the censure of a just-minded person." President Young, in reply, told him that he had insulted not only the women, but the men, and in charging them with "a spirit of defection toward the Government," he was either "profoundly ignorant or wilfully wicked." That his speech had been deliberately planned, the Judge admitted, and that it was worded with a view to its effect in the East, rather than in Utah, was the general belief of those who heard him.

**Secretary and Legislature.**—Learning that Secretary Harris intended to take with him the funds appropriated by Congress for the Legislature, also the Territorial seal, with various records and documents, Governor Young endeavored to prevent what he considered an illegal act on the part of that functionary. Summoning the Legislature, he laid the facts before them, and a resolution was passed directing the United States Marshal to take into custody all Government funds and property in charge of the Secretary. The Marshal was also instructed to present to him for payment an order for five hundred dollars, covering the incidental expenses of the Assembly.

Mr. Harris refused to honor these requisitions. He contended that the election of the Legislature was illegal, and claimed to have private instructions not to pay out any funds, unless such action were strictly legal according to his own judgment. The Judges, when appealed to, held that the Secretary was amenable only to the United States Government for the manner in which he discharged his duties. It transpired that Judges Brandebury and Brocchus had organized the Supreme Court and held a session, without waiting for the Governor and Legislature to fix time and place, and had granted an injunction to prevent any one acting under the au-

mon" leader. His insult to the women was couched in the following language: "I have a commission from the Washington Monument Association, to ask of you a block of marble as the test of your loyalty to the Government of the United States. But in order for you to do it acceptably you must become virtuous, and teach your daughters to become virtuous, or your offering had better remain in the bosom of your native mountains."

The people of Utah had not waited for the coming of Judge Brocchus, before taking appropriate action in this matter. In February, 1851, before the dissolution of the Provisional Government, the General Assembly had passed a resolution providing that a block of native marble be prepared for the purpose indicated, and in compliance with that resolution, a block of native oolite (no marble being quarried here that early) was suitably carved and lettered by William Ward, a local sculptor, and forwarded to the national capital, as Utah's contribution to the Washington Monument.

thority of the body "purporting to be the Legislative Assembly of the Territory" from interfering with said funds and property. From this decision Judge Snow dissented, on the ground that the session was illegal.

**Governor Young to President Fillmore.**—In anticipation of an unfriendly report to the national authorities, Governor Young, the day after the departure of the two Judges and the Secretary, addressed a communication to the President of the United States, in which his own course as Executive and the conduct of the retiring officers were set forth in detail. He assured the President that he intended to discharge faithfully every duty of his office, and would take the liberty of reporting, in behalf of the absent Secretary, the acts and doings of the Legislative Assembly, which was still in session. In conclusion he stated that he would receive gratefully any instructions that the Chief Magistrate might be pleased to give.\*

**Charges of Sedition and Polygamy—The Grant Letters.**—The returning Judges and Secretary, on arriving in Wash-

\*The Governor's communication to the President was dated September 29, 1851. Answering objections raised by the Secretary relative to the recent election, he maintained that the enumeration of inhabitants, made without the use of regular census blanks, had met the requirements of the Organic Act, and explained that the reason why the Governor's proclamation apportioning the representation did not receive the signature and seal of the Secretary, was because that officer had not then arrived, and it was imperative that matters should proceed without further delay. Then followed this paragraph:

"It has been and is said of myself and of the people over whom I have the honor to preside, that they frequently indulge in strictures upon the acts of men who are entrusted with Governmental affairs, and that the Government itself does not wholly escape. Now, sir, I will simply state what I know to be true. \* \* \* No people exist who are more friendly to the Government of the United States than the people of this Territory. The Constitution they revere, the laws they seek to honor. But the non-execution of those laws, in times past, for our protection, and the abuse of power in the hands of those entrusted therewith, \* \* \* for this we have cause of complaint. \* \* \* The foregoing is a case in point. What good and substantial reason can be given that the people of this Territory should be deprived, for probably nearly a year to come, of a Supreme Court, of the official seal, of a Secretary of State, of the official publication of the laws, and other matters pertaining to the office of Secretary? Is it true that officers coming here by virtue of an appointment by the President, have private instructions that so far control their actions as to induce the belief that their main object is not the strict and legal performance of their respective duties, but rather to watch for iniquity, to catch at shadows, and make a man 'an offender for a word'? \* \* \* I cannot conceive that it can or ought to be in the power of any subordinate officer to subvert or even retard for any length of time the ordinary motion of the wheels of Government. \* \* \* So far as the public interests are concerned, it would have been quite as well if neither of these gentlemen (Judges Brandebury and Brocchus) or Mr. Harris had ever troubled themselves to cross the plains."

ton, reported that they had been "compelled to leave Utah on account of the lawless acts and seditious tendencies of Brigham Young and the majority of the residents." They charged Governor Young with a waste of public funds, meaning by this the proposed erection of the State House at Fillmore. They also referred to the existence of polygamy (plural marriage) in Utah, a fact that had given the cue to Judge Brochus, when he offered his public insult to the women of the "Mormon" community.

The communication of the three officials appeared in the New York Herald, January 10, 1852, and was offset by a series of letters published, one in the Herald, and all in a pamphlet widely circulated, over the signature of Jedediah M. Grant, Mayor of Salt Lake City. Mayor Grant had been sent East to help Dr. Bernhisel counteract the efforts of the complaining officials at the seat of Government. The Grant letters were largely the product of the caustic and brilliant pen of Colonel Thomas L. Kane. Secretary Webster directed the "runaways" to return to their posts, or else resign. They chose the latter course.

**New Appointments Requested.**—The Utah Legislature petitioned the Federal Government to fill the vacancies caused by these resignations, and requested that the new appointees be residents of Utah, and that they be selected as soon as possible. Pending action upon the petition, Governor Young appointed Willard Richards Secretary of Utah, pro tem.

#### Associate Justice Snow—

#### Utah's First Federal Court.—

To meet in some degree the emergency that had arisen, Judge Snow was authorized by the Legislature to hold court in all the districts. At the same time certain changes were made in the boundaries of those districts. Sessions of court were to be held at Salt Lake City, Provo, Manti, Fillmore and Parowan; these provisions to remain in force until the President and Senate of the United States, who were duly informed of all that was done, should supply a full bench of



JUDGE SNOW.

The first United States Court ever held in Utah was opened by Judge Zerubbabel Snow at Salt Lake City. He examined and passed upon the proceedings of the Governor, in calling the Legislature, holding them to be legal, though somewhat informal. His decision was reported to and sustained by the United States Department of State, which also sanctioned the appointment of a temporary Secretary. The bills signed by Mr. Richards, as well as his salary for services in that capacity, were allowed and paid by the Government.\*

**New Counties—Probate Courts and their Jurisdiction.**—During the winter of 1851-1852, the Legislature created the counties of Iron and Washington, and provided for the complete organization of these and the counties previously existing.† In addition to the powers usually possessed by probate courts, such as the settlement of estates and the guardianship of minors, those now organized were given general civil and criminal jurisdiction, making them almost equal with the district courts, to which, however, there was the right of appeal. This extension of powers was deemed necessary at the time, owing to the absence of two of the three Federal judges, a situation that threw too great a burden upon Judge Snow.‡

**Territorial Attorney-General and Marshal.**—Another Legislative enactment of that period created the offices of Territorial Attorney-General and Territorial Marshal. It was made the duty of these officers and their deputies to act for the Territory in all its legal business arising under the local laws, leaving to the United States Attorney and United States Mar-

\*Judge Snow presided at the first murder trial in Utah. It took place in the District Court at Salt Lake City. Howard Egan, a Pioneer, had shot James Monroe, for seducing his wife, and Egan was tried and acquitted. The case was prosecuted by United States Attorney Seth M. Blair, and the defendant was represented by George A. Smith and William W. Phelps.

†Probate judges were elected by the Assembly and commissioned by the Governor, as follows: Salt Lake County, Elias Smith; Weber County, Isaac Clark; Davis County, Joseph Holbrook; Utah County, Preston Thomas; Tooele County, Alfred Lee; Juab County, George H. Bradley; Sanpete County, George Peacock; Millard County, Anson Call; Iron County, Chapman Duncan.

‡Owing to disagreements that soon arose, the Legislature contemplated an amendment of its laws, so as to limit the jurisdiction of the probate courts; but the continued practice of many of the Federal judges of absenting themselves from the Territory for long periods, leaving litigants without recourse to their tribunals, caused matters to remain as they were. The final settlement of the controversy came with the enactment by Congress of the Poland Law (1874), limiting the jurisdiction of the lesser courts.

shal that part of the public business arising under the Federal statutes.\*

**Proclamation of Plural Marriage.**—About this time the first public announcement was made by the Church in Utah of its belief in and practice of the principle of plural marriage, commonly called "polygamy." It had been introduced at Nauvoo, and practiced there by Joseph Smith, Brigham Young, and other prominent "Mormons," and the institution had been perpetuated during and after the migration of the people to the Rocky Mountains. But not until the 29th of August, 1852, were these facts openly proclaimed to the world. The occasion was a special conference of the Church; the place, Salt Lake City; and the speaker, Elder Orson Pratt, who, under direction from President Brigham Young, delivered a discourse embodying the official announcement:<sup>t</sup>

\*The Comptroller of the United States Treasury, Hon. Elisha Whittlesey, had informed the Legislature, through Judge Snow, that the General Government would defray only the expense attendant upon the settlement of United States business in the courts, and that the Territory must assume the cost of its own. From time to time there was friction between the two sets of officers provided, and this was one cause for the enactment of the Poland Law.

<sup>t</sup>Elder Pratt asserted the scriptural character of the doctrine of plurality of wives, and declared that the motive behind this form of marriage, both in ancient Israel and in modern or "Mormon" Israel, was not to gratify the carnal feelings of man, but to enable righteous men and women, in fulfillment of the divine command to "multiply and replenish the earth," and under sacred obligations, restrictions, and limitations, to raise up a healthier and more numerous posterity, to be taught and trained in the ways of truth and righteousness. In beginning his discourse the speaker affirmed the doctrine to be a part of the religious faith of the Latter-day Saints, and he maintained that its free exercise was guaranteed by the Constitution of the United States.

Says B. H. Roberts, in his History of the Mormon Church ("American" for April, 1913): "It was time this action was taken. The Church owed it to frankness with the world to make the official proclamation; for many were in doubt in respect to knowing what course to pursue. It had been a matter of wide knowledge within the Church for some time that such a principle was believed in and practiced by many of the leading Elders; and yet none to whom this knowledge had come in an official way, felt at liberty to make proclamation of the doctrine, neither was it their prerogative to do so; and in the absence of an official announcement it had become a profound source of embarrassment. Justice to the women involved in the system, moreover, no less than candor with the world, also required this official proclamation; for their standing must have become equivocal had it been much longer delayed.

"As to the effect this proclamation had upon the work in general, men will differ in their opinions. That at the first it gave the opponents of the work great advantage, may not be doubted; for from every foreign mission came reports of increased opposition resulting in many cases in mob violence. Indeed the reports of the 'run-away officers'—Broccchus, Day and Brandebury, and their charge of the practice of plural marriage in Utah, now confirmed by the official proclamation of

Pratt was sent to the City of Washington to establish and conduct a periodical setting forth the doctrines of the Church of Jesus Christ of Latter-day Saints, including the plural wife doctrine. Accordingly he published at the national capital a paper called "The Seer," the first number of which made its appearance in January, 1853.\*

**Federal Vacancies Filled.**—The Authorities at Washington exercised due deliberation in filling the Federal vacancies in Utah. Eventually Lazarus H. Reed, of New York, was appointed Chief Justice; Leonidas Shaver, Associate Justice; and Benjamin G. Ferris, Secretary. It was June, 1853, when the new Chief Justice made his appearance upon the streets of Salt Lake City. Concerning his reception Judge Reed said in a letter: "I waited on His Excellency, Governor Young, exhibited to him my commission, and by him was duly sworn and

the doctrine and the practice of it, became the chief weapon in the hands of the opponents of the New Dispensation."

A glance at "polygamy" in early Utah is given by Captain Stansbury in his book, the "Expedition," which was published during the same year that the plural wife doctrine was proclaimed. He says: "If a man once married desires to take a second helpmate, he must first, as with us, obtain the consent of the lady intended, and that of her parents or guardians, and afterwards the approval of the Seer or President, without which the matter cannot proceed. The woman is then 'sealed' to him under the solemn sanction of the Church, and stands, in all respects, in the same relation to the man as the wife that was first married. The union thus formed is considered a perfectly virtuous and honorable one, and the lady maintains without blemish the same position in society to which she would be entitled were she the sole wife of her husband. \* \* \* Purity of life, in all the domestic relations, is strenuously incited. \* \* \* Upon the practical working of this system of plurality of wives, I can hardly be expected to express more than a mere opinion. \* \* \* So far, however, as my intercourse with the inhabitants afforded me an opportunity of judging, its practical operation was quite different from what I had anticipated. Peace, harmony, and cheerfulness seemed to prevail, where my preconceived notions led me to look for nothing but the exhibition of petty jealousies, envy, bickerings, and strife. Confidence and sisterly affection among the different members of the family seemed pre-eminently conspicuous, and friendly intercourse among neighbors, with balls, parties, and merry-makings at each other's houses, formed a prominent and agreeable feature of the society. In these friendly reunions, the President, with his numerous family, mingled freely, and was ever an honored and welcome guest, tempering by his presence the exuberant hilarity of the young, and not unfrequently closing with devotional exercises the gaiety of a happy evening."

\*For a similar purpose, "The Mormon," with John Taylor as editor and publisher, was established in New York City, issuing its first number in February, 1855. About the same time "The Luminary" was published in St. Louis by Erastus Snow, and a little later (1856) George Q. Cannon founded "The Western Standard" in San Francisco.

installed as Chief Justice of Utah. I was received by Governor Young with marked courtesy and respect. He has taken pains to make my residence here agreeable."

Judge Shaver and Secretary Ferris had arrived the year before. The coming of the two magistrates was a great relief to Judge Snow, who for many months had been doing the work of three. Each district now had its own Judge, and the Supreme Bench of the Territory was complete.\*

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\*Secretary Ferris was the first of the new officers to retire. He spent about six months in Utah, and then went to California. While here he collected materials for a book, "Utah and the Mormons," which he published in 1854. After his departure Willard Richards served another term as Secretary pro tem., and was succeeded by Almon W. Babbitt, who was appointed Secretary by the President of the United States. Chief Justice Reed and Associate Justice Shaver remained several years in the Territory, and were held in high esteem by all the citizens.

## IX.

## GROWTH OF THE COMMONWEALTH.

1852-1854.

**Extension of Settlements—Enterprises and Improvements.**—Five years the founders of Utah had been in the Great Basin. Wisely and well had they improved the time. Whenever a spring of water bubbling up from some oasis in the desert, or the smallest stream flowing from the mountains, held out hope of agricultural success, there settlements had been formed or were in contemplation. From the neighborhood of Bear River on the north, a chain of towns and villages, encircled by farms and fields, extended southward for a distance of nearly four hundred miles. The northernmost point of civilization was Box Elder, the nucleus of Brigham City, then in Weber County; the most southern point, a ranch on Ash Creek, now the town of Harmony, Washington County. Settlements were also forming east and west of Salt Lake Valley. The beginnings of Carson County (now in Nevada) had been made, and the Green River country was about to be colonized.\*

Throughout Utah the erection of public buildings, the establishment of educational, mercantile, and industrial enterprises, and the increase and improvement of mail facilities, kept pace with the growth and extension of the settlements.

**First Government Mail Service.**—The first regular mail service to Salt Lake City under a contract with the Federal Government, was conducted by Colonel Samuel H. Woodson, of Independence, Missouri, the eastern terminus of the route. It was a monthly service, and was started in July, 1850. During the summer of 1851 Feramorz Little, a Utah man, began

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\*In September, 1851, a Utah colony under Amasa M. Lyman and Charles C. Rich purchased and occupied the San Bernardino ranch in Southern California. This property, a grant to its original owners from the Government of Mexico, was situated about one hundred miles northward from the seaport of San Diego. It was acquired with a view to establishing an outfitting post for "Mormon" emigration from the West. The ranch comprised twenty square miles, costing the colonists \$77,500. A fort was built, a city laid out, municipal and ecclesiastical governments were organized, and the surrounding country was explored and improved. The San Bernardino settlement was maintained until the latter part of 1857, when all "Mormon" colonizing enterprises outside the Territory were abandoned. The old town is now the flourishing City of San Bernardino.